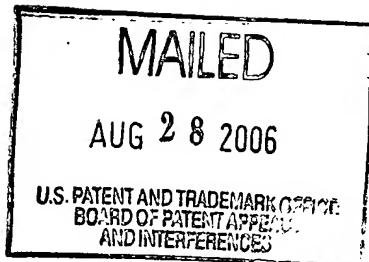


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DONALD F. DEPALMA,
CLIFFORD J. DWYER and ROBERT P. LETENDRE

Application 10/041,117

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on August 19, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matter requiring attention prior to docketing is identified below:

An examination of the Image File Wrapper (IFW) reveals that appellants filed an Appeal Brief on September 29, 2005. In response, an Examiner's Answer was mailed October 28, 2005.

Section § 1207.02 of the Manual of Patent Examining Procedure (MPEP) (8th Ed., Rev. 3, August 2005) states:

Requirements for Examiner's Answer

The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

....

(8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

It is noted that while the Examiner's Answer states that “[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal” [page 2 under the caption “Evidence Relied Upon”], the claim rejections are listed as follows:

1. Claims 1, 6, 21, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Rhodes (US 5,843,160, previously cited) [page 3]; and
2. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rhodes (US 5,843,160, previously cited) in view of the applicants specification [page 4].

Correction is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) for submission of a revised Examiner's Answer which corrects the "Evidence Relied Upon" section; and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 
DALE M. SHAW
Deputy Chief Appeal Administrator
(571) 272-9797

DMS:psb

Philip S. Johnson
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003